

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**TENTATIVE ORDER NO. R9-2007-0042**

**WASTE DISCHARGE REQUIREMENTS  
FOR  
WINCHESTER WESSELINK LLC  
WESSELINK DAIRY  
RIVERSIDE COUNTY**

The California Regional Water Quality Control Board, San Diego Region (hereafter Regional Board), finds that:

1. Wesselink Dairy is owned by Winchester Wesselink LLC (hereinafter discharger) and is located at 32605 Holland Road, Winchester, CA 92596, on 80 acres in the W1/2 of the NE1/4, of Section 9, T6S, R2W, SBB&M in the Domenigoni Subarea (902.35) of the Murrieta Hydrologic Area (902.30) of the Santa Margarita Hydrologic Unit (902.00).
2. On April 11, 2007, the discharger submitted a Report of Waste Discharge (RoWD) to resume dairy operations at the subject site. The RoWD included a waste management plan that has been incorporated into the requirements of this Order.
3. The discharge of dairy waste consisting of manure, urine, milk parlor wash and contaminated storm water runoff, may cause ground water mineralization, the addition of nitrates to ground water, surface runoff of biodegradable and suspended material, nuisance odors, the addition of nutrients to adjacent surface water streams and other miscellaneous problems. If not adequately managed, the discharge of waste at the Wesselink Dairy could impact water quality in the downgradient Warm Springs Creek and groundwater in the Domenigoni Subarea.
4. The Wesselink Dairy is not a Concentrated Animal Feeding Operation (CAFO) as defined by 40 CFR 122.23 (c)(3), because the dairy will not exceed a maximum herd size of 699 milking cows, and pollutants will not be discharged into waters of the United States through a manmade ditch, flushing system, or other similar manmade device.
5. The *Water Quality Control Plan, San Diego Basin (9)* (Basin Plan) was adopted by this Regional Board on September 8, 1994; and subsequently approved by the State Board. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board.

6. The waste management plan for the Wesselink Dairy is consistent with this Regional Board's regulatory program policy (Resolution No. 87-71) as prescribed in Basin Plan for controlling salt and nitrogen loading by dairies and implements State Board Resolution No. 88-35 directing this Regional Board to implement procedures developed by the State Board to determine loading limits for proposed dairies in order to meet Basin Plan objectives or to amend the Basin Plan as appropriate.
7. The Basin Plan established the following beneficial uses for surface waters of the Domenigoni Hydrologic Subarea (902.35):
  - a. Municipal and Domestic Supply
  - b. Agricultural Supply
  - c. Industrial Service Supply
  - d. Industrial Process Supply
  - e. Water Contact Recreation (potential)
  - f. Non-Contact Water Recreation
  - g. Wildlife Habitat
9. The Basin Plan established the following beneficial uses for ground waters of the Domenigoni Hydrologic Area (902.35):
  - a. Municipal and Domestic Supply
  - b. Agricultural Supply
  - c. Industrial Service Supply
  - d. Industrial Process Supply
10. This order implements the regulations governing confined animal facilities contained in Article 1, Chapter 7, Title 27 of the California Code of Regulations (hereinafter referred to as Chapter 27) to which this facility is subject.
11. These waste discharge requirements result only in the control of wastes discharged from an existing dairy and, as such, are exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with section 15301, Chapter 3, Title 14, California Code of Regulations.
12. The Regional Board, in establishing the requirements contained herein, considered factors including, but not limited to the following:
  - a. Past, present, and probable future beneficial uses of water.
  - b. Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.
  - c. Water quality conditions that could reasonably be achieved through the coordinated control of factors which effect water quality in the area.

- d. Economic considerations.
  - e. The need for developing housing within the region.
  - f. Beneficial uses to be protected and the water quality objectives reasonably required for that purpose.
  - g. Other waste discharges.
  - h. The need to prevent a nuisance
13. The Regional Board has considered all water resource related environmental factors associated with the proposed discharge of waste.
  14. The Regional Board has notified the discharger and interested parties of its intent to prescribe waste discharge requirements for Wesselink Dairy and has provided them with an opportunity to submit their written comments.
  15. The Regional Board, in a public meeting, heard and considered all comments pertaining to the discharge.

**IT IS HEREBY ORDERED**, That Winchester Wesselink LLC, the discharger, the discharger's agents, successors and assignees, discharging wastes from Wesselink Dairy, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

**A. PROHIBITIONS**

1. Discharges of wastes, including windblown spray and runoff of effluent applied for irrigation, to lands which have not been specifically described to the Regional Board and for which valid waste discharge requirements are not in force are prohibited.
2. Neither the treatment, storage nor disposal of waste shall create a pollution, contamination or nuisance, as defined by Section 13050 of the California Water Code.
3. Disposal of manure and facility wastewater including precipitation on, and drainage through manured areas to surface water are prohibited.
4. Disposal of manure on land, which is owned, rented, or leased by the owner or operator, is prohibited.
5. Discharge of facility wastewater including precipitation on, and drainage through manured areas by irrigation to pasture, cropland or other land surface at the dairy is prohibited, unless the discharger submits prior to the initiation of the discharge, a revised waste management plan that demonstrates appropriate agricultural utilization of the nutrients will occur.

6. The Discharger shall comply with the waste discharge prohibitions contained in the Basin Plan.

## **B. DISCHARGE SPECIFICATIONS**

1. The discharge of dairy wastewater or waste solids shall not:
  - a. Cause this Regional Board's objectives for the ground or surface waters of the Domenigoni Hydrologic Subarea as established in the Basin Plan, to be exceeded;
  - b. Cause pollution, contamination or nuisance or adversely affect beneficial uses of the ground or surface waters of the Domenigoni Hydrologic Subarea as established in the Basin Plan.
2. The discharge of facility wastewater volume in excess of that attributable to a mature milking cow herd size of 699 cows is prohibited.
3. Domestic wastes shall be disposed of by methods approved by the County Health Department.
4. The owner/operator of the dairy shall not knowingly contribute to the improper disposal of manure hauled off-site. The manure hauled off the dairy property shall be properly applied or disposed of to ensure that the water quality is not adversely affected in the area in accordance with Chapter 7, Title 27 of the California Code of Regulations.
5. Mortalities shall not be disposed of in any liquid manure or process wastewater system, and must be handled in such a way as to prevent the discharge of pollutants to surface water.

## **C. FACILITY DESIGN AND OPERATION SPECIFICATIONS**

1. PROPER OPERATION
  - a. The discharger shall, at all times, properly operate and maintain all facilities and systems of waste disposal (and related appurtenances) which are installed or used by the discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance include the routine inspection, maintenance, and repair of drainage channels, culverts, ponds, irrigation equipment and related wastewater or runoff collection structures or equipment to ensure that the proper capacity is maintained.

- b. The wastewater or waste solids disposal operation shall not cause unusual odors or other nuisance beyond the limits of the dairy property.

2. DISPOSAL POND(S)

- a. Disposal pond(s) shall be lined with or underlain by soils which contain at least 10 percent clay and not more than 10 percent gravel or artificial materials of equivalent impermeability.
- b. Disposal pond(s) shall be designed and constructed to retain all wastewater.
- c. Water levels in the disposal pond(s) shall be sufficiently lowered by November 01, of each year to provide adequate storage capacity prior to the beginning of the wet weather periods.
- d. All open disposal ponds must have a depth maker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25 year, 24-hour rainfall event.

3. FLOOD PROTECTION

All waste treatment, containment and disposal facilities shall be protected against 20-year peak stream flows as defined by the Riverside County flood control agency unless such facilities have greater than 20-year peak stream flow protection. In that case, the greater level of peak stream flow protection shall be maintained.

4. SURFACE DRAINAGE

- a. This confined animal facility shall be designed, constructed and operated to retain all facility wastewater and all precipitation on, and drainage through, manured areas during a 25-year, 24-hour storm.
- b. All precipitation and surface drainage outside of manured areas, including that collected from roofed areas, and runoff from tributary areas resulting from a storm of intensity equal to or less than 25-year, 24-hour storm shall be diverted away from manured areas unless such drainage is fully retained. The Regional Board may waive application of this requirement in specific instances where upstream land use changes have

altered runoff patterns such that retention of flood flow is not feasible.

5. MANURE MANAGEMENT

- a. Manured areas shall be maintained to prevent nuisance conditions and shall be managed to minimize infiltration of water into underlying soils. The corrals shall be cleaned of excess manure by October 1 of each year prior to the beginning of the rainy season.
- b. The Discharger shall not knowingly contribute to the improper disposal of manure hauled off-site. The manure hauled off the dairy property shall be recorded on manure manifest forms and properly applied or disposed of to ensure that the water quality is not adversely affected in the area.
- c. Animals shall be prevented from entering any surface water within the confined area.

5. MONITORING AND REPORTING

The discharger shall comply with attached Monitoring and Reporting Program No. R9-2007-0042, and future revisions thereto as specified by the Executive Officer.

**D. STANDARD PROVISIONS**

1. DUTY TO COMPLY

The discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.

2. ENTRY AND INSPECTION

The discharger shall allow the Regional Board, or an authorized representative upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the California Water Code, any substances or parameters at any location.

3. CIVIL MONETARY REMEDIES

The California Water Code provides that any person who intentionally or negligently violates any waste discharge requirements issued, reissued, or amended by this Regional Board is subject to a civil monetary remedy of up to 20 dollars per gallon of waste discharged or, if a cleanup and abatement order is issued, up to 15,000 dollars per day of violation or some combination thereof.

4. PENALTIES FOR INVESTIGATION, MONITORING OR INSPECTION VIOLATIONS

The California Water Code provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this Order, or falsifying any information provided in the monitoring reports is guilty of a misdemeanor and is subject to a civil liability of up to 5,000 dollars for each day in which the violation occurs.

5. ENDANGERMENT OF HEALTH AND ENVIRONMENT

The discharger shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the Executive Officer within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24

hours. The following occurrence(s) must be reported to the Executive Officer within 24 hours:

- a. Any discharge of waste (including corral runoff) to surface water or land neither owned nor controlled by the dairy;
- b. Any increase in cow herd size beyond the maximum herd size specified in this Order.

6. CORRECTIVE ACTION

The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

7. TREATMENT FAILURE

In an enforcement action, it shall not be a defense for the discharger that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order. Upon reduction, loss, or failure of the treatment facility, the discharger shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies for example, when the primary source of power of the treatment facility is failed, reduced, or lost.

**E. REPORTING AND RECORD KEEPING REQUIREMENTS**

1. INFORMATION REPORT

The discharger must submit a certification report prepared by a licensed professional or firm that auxiliary storage ponds are properly designed and constructed with a minimum of 4 feet embankment and 1 foot of freeboard. The certification report must certify that stormwater runoff from the manured areas is diverted into these storage ponds to provide adequate storage capacity in a storm event. The discharger must submit information describing the current waste management practices including volume of milkbarn wastewater generated, and the control of wastewater application and disposal at the dairy. A map of the current land use and property boundaries, ponds, embankments, general contour slopes, and wastewater and manure disposal and storage areas must be included with the report. The report is due within 150 days of the adoption of this order unless additional time is allowed by the Regional Board Executive Officer. The report must be certified by the discharger as noted in Reporting and Record Keeping E.9.c.

2. PERMIT REPOSITORY

A copy of this Order shall be maintained at the discharger's facility and shall be available to operating personnel at all times.

3. MAINTENANCE OF RECORD

The discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.

4. GENERAL REPORTING REQUIREMENT

The discharger shall furnish to the Executive Officer of this Regional Board, within a reasonable time, any information which the Executive Officer may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The discharger shall also furnish to the Executive Officer, upon request, copies of records required to be kept by this Order.

5. PERMIT REVISION

This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this Order;
- b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination the authorized discharge.

The filing of a request by the discharger for the modification, revocation and reissuance, or termination this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

6. CHANGE IN DISCHARGE

The discharger shall file a new Report of Waste Discharge least 120 days prior to the following:

- a. Significant change in the treatment or disposal method (e.g. change in the method of treatment which would significantly alter the nature of the waste).
- b. Change in the disposal area from that described in the findings of this Order.
- c. Increase in flow beyond a waste discharge volume attributable to a milking cow herd size of 699 cows.
- d. Other circumstances which result in a material change in character, amount, or location of the waste discharge.
- e. Any planned change in the regulated facility or activity which may result in noncompliance with this Order.

7. CHANGE IN OWNERSHIP

This Order is not transferable to any person except after notice to the Executive Officer. The discharger shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new discharger containing a specific date for the transfer of this order's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on. The Regional Board may require modification or revocation and reissuance of this Order to change the name of the discharger and incorporate such other requirements as may be necessary under the California Water Code.

8. INCOMPLETE REPORTS

Where the discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Regional Board, it shall promptly submit such facts or information.

9. REPORT DECLARATION

All applications, reports, or information submitted to the Executive officer shall be signed and certified as follows:

- a. The Report of Waste Discharge shall be signed as follows:
  - i. For a corporation - by a principal executive officer of at least the level of vice-president.
  - ii. For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.

- iii. For a municipality, state, federal or other public agency - by either a principal executive officer or ranking elected official.
- b. All other reports required by this order and other information required by the Executive Officer shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:
  - i. The authorization is made in writing by a person described in paragraph (a) of this provision;
  - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
  - iii. The written authorization is submitted to the Executive Officer.
- c. Any person signing a document under this Section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

## 10. REGIONAL BOARD ADDRESS

The discharger shall submit reports required under this Order, or other information required by the Executive Officer, to:

Executive Officer  
California Regional Water Quality Control Board San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

## **F. NOTIFICATIONS**

### 1. VESTED RIGHTS

This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from liability under federal, state or local laws, nor create a vested right for the discharger to continue the waste discharge.

2. SEVERABILITY

The provisions of this order are severable, and if any provision of this Order, or the application of any provision of this order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.

I, John H. Robertus, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on June 13, 2007.

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JOHN H. ROBERTUS, Executive Officer